

**Utah Insurance Department
Content Standards
Individual Annuity
(Single and Flexible Premium Deferred, Fixed Interest, not Modified Guaranteed)**

NOTE: These Standards are provided to assist the insurer in filing forms and rates. They are not intended to be all inclusive and are a work in progress. References beginning with "31A" refer to the insurance code as part of Utah Code Annotated (U.C.A.) and those beginning with "R590" refer to department rules as part of the Utah Administrative Code (U.A.C.). The comments are a brief synopsis of the referenced material and do not contain all requirements or exceptions. All references should be reviewed for compliance. As required by U.C.A. § 31A-21-201(2), the insurer is responsible for assuring that forms and rates submitted are in compliance with the Utah Insurance Code and Rules.

NOTE: As defined by U.C.A. § 31A-1-301, long-term care insurance includes any of the following that provide directly or supplement long-term care insurance: a group or individual annuity or rider; a life insurance policy or rider; long-term care insurance includes a policy or rider that provides for payment of benefits based on cognitive impairment or functional capacity.

REVIEW REQUIREMENTS	REFERENCE	COMMENTS
FORM FILING REQUIREMENTS		
File and Use of Forms	31A-3-103, 31A-21-201, R590-86 & Bulletin 99-7	"FILED" means that a filing is submitted in accordance with applicable statute, rule, or filing order; received by the department within the time provided in the applicable statute, rule or filing order; and accompanied with the applicable filing fee. Forms must be filed prior to use.
Policy and Application	31A-21-101	Policies and applications (a) delivered or issued for delivery in this state; (b) on property ordinarily located in this state; (c) on persons residing in this state when the policy is issued; and (d) on business operations in this state are subject to Utah Insurance Code and rules.
Policy and Filing Documents	R-590-86 & Bulletin 99-7	Policy data page(s), actuarial memorandum and demonstration, and the annual report must be completed with John Doe information representative of the market intended. Each document must be completed using the same risk information; i.e., same age, premium amount, maturity value and duration. All filing documents must be representative of the market; i.e., retirement, seniors, tax qualified, etc.
GENERAL FORM REQUIREMENTS		
COVER PAGE		
Insurance Company Name	31A-21-201(3)(a)(iii) & 31A-21-301(1)(a)	The exact name of the insurer, the administrative office address, and state of domicile must be identified conspicuously on the policy.
Coverage Name, Description	31A-21-201(3)(a)	The coverage name or title, a brief description of the coverage and any special features must be

**Utah Insurance Department
Content Standards
Individual Annuity
(Single and Flexible Premium Deferred, Fixed Interest, not Modified Guaranteed)**

& Special Features		disclosed on the policy cover; i.e. flexible premium deferred annuity with an equity index.
Policy Examination/ Free Look	31A-22-423(1)(a) & R590-93	A minimum free examination period of 10 days for new issues and 20 days for replacement policies must be prominently printed on the cover page.
Full Refund of Premium	31A-22-423 (1)(a)	Full refund of premium must be provided upon return of the policy within the free look period.
Form Identification Number	31A-21-201(3) & R590-86	A distinct form identification number must appear at the bottom of the form. A revised form must contain a revision date or other distinct identifier.
SPECIFICATIONS PAGE		
Annuity Date	31A-21-201	The date annuity payments are scheduled to begin must be disclosed.
Interest Rates, Expenses, Charges	31A-21-201, 31A-22-409	All guaranteed interest rates, expense charges, surrender charges, and partial withdrawal charges, any initial guaranteed interest rates, and any other factors that may affect the values must be disclosed in detail.
Sample Data	R590-86, Bulletin 99-7	The specifications page(s) must be completed with data that is accurate and consistent with the other contents of the contract and the actuarial memorandum and demonstration of compliance with Standard Nonforfeiture Law for Deferred Annuities. The data page must disclose the minimum guaranteed interest rate Equity Indexed Annuity contracts must disclose at least the following information: a. The index; i.e., S&P 500 Composite Stock Price Index b. Indexing method c. Percentage cap d. Minimum participation rate e. Maximum administration fees and all other charges and fees f. Terms g. Guaranteed minimum interest rate. <u>This rate may not be a variable item.</u> h. Guaranteed minimum surrender value
Variability - (bracketed data)	31A-21-201, R590-86, Bulletin 99-7	Any information that is variable must be bracketed and must be explained in a statement of variability or all items of variability must be listed within brackets. Any change in the items contained within the brackets must be refiled prior to use. <u>The guaranteed minimum interest crediting rate may not be a variable item.</u> The maximum surrender charge schedule must be shown in the contract.
POLICY PROVISIONS		
Annual Report	31A-21-201(3)	The contract must provide for an annual report. The report must include the beginning and ending account values, the ending surrender value, any premium paid, any interest credited, any

**Utah Insurance Department
Content Standards
Individual Annuity
(Single and Flexible Premium Deferred, Fixed Interest, not Modified Guaranteed)**

		withdrawals, any loan amounts outstanding, and the death benefit.
Application	31A-21-201(3), R590-93-7 & R590-93-8	<p>(a) Applications must contain a statement to be signed by the applicant and a statement to be signed by the agent as to whether or not he or she knows replacement is or may be involved in the transaction.</p> <p>(b) The application may not contain vague health questions without a time limit.</p> <p>(c) An application must be included in every policy filing where an application is used.</p> <p>(d) Applications that include the annuitization options must clearly disclose that the lifetime payment option is lifetime only with no guaranteed payment period.</p> <p>(e) <u>Negative enrollment or negative consent is not allowed</u></p>
Arbitration	31A-21-314 & R590-122	Permissible arbitration must be properly disclosed in the policy and the application. No provision may deprive Utah courts of jurisdiction over an action against an insurer, except as provided in permissible arbitration provisions.
Assignment	31A-22-412	Assignment provision must allow the owner of any rights in the policy to assign any of those rights.
Autopsy & Physical Exam	31A-22-417	Autopsy and/or physical examination is at the company's expense.
Cash surrender option	31A-22-409(6) & (7)	Policy must clearly disclose the conditions for cash surrender. If the contract does not provide cash surrender benefits, such as in a Structured Settlement Contract, a statement to that effect must be in the contract to clearly and prominently disclose such restriction.
Cash values	31A-21-201(3) & 31A-22-409, Bulletin 2002-6, Bulletin 2002-9	<p>The Standard Nonforfeiture Law applies to non-registered, general account contracts. Guaranteed cash values must be in compliance with Standard Nonforfeiture Law for Deferred Annuities, U.C.A. 31A-22-409. <i>NOTE: The code was revised effective May 6, 2002. Refer to the code and to Bulletin 2002-6 regarding the definition of maturity date for the purpose of determining minimum nonforfeiture values.</i> U.C.A. § 31A-22-409(8)(b) requires that on or past the maturity date, <u>the cash surrender value must be equal to the amount used to determine annuity benefits.</u> A surrender charge may not be imposed on or past maturity. <u>Surrender charges at the later of attained age 70 or the tenth anniversary must equal zero.</u> <u>Surrender charges for seniors (ages 60+) must equal zero (0%) at the tenth anniversary.</u></p> <p>Annuity contract s must contain sufficient information to determine minimum guaranteed cash surrender benefits, death benefits, and paid-up annuity benefits. All factors that may affect the cash values must be clearly disclosed by amount and by duration. Such factors include but are not limited to the <u>guaranteed minimum interest rate(s)</u>, surrender charges, withdrawal charges, fees, loads, market value adjustments, and expenses.</p>

**Utah Insurance Department
Content Standards
Individual Annuity
(Single and Flexible Premium Deferred, Fixed Interest, not Modified Guaranteed)**

		<p><u>Bonuses</u>: that are available only for annuitization are non-compliant with U.C.A. 31A-22-409(8)(b). Persistency and other bonuses are allowed if they are available for annuitization and in cash.</p> <p><u>Market Value Adjustment</u>, if any, must be fair and equitable; must provide for increases as well as decreases. Market Value Adjustments are allowed <u>only</u> during periods of fixed rate guarantees. A Market Value Adjustment must be <u>limited</u> so as to not invade minimum surrender values required by the retrospective test of the Standard Nonforfeiture Law for Deferred Annuities.</p> <p><u>Renewing term annuities</u> that renew guaranteed interest rates and renew surrender charges must provide that the guaranteed value at the beginning of any subsequent term will be equal to the guaranteed value at the end of the prior term immediately ending. <u>The contract must provide for a reasonable time period at renewal, during which the contract can be surrendered free of surrender charges or any other penalties.</u> The contract must clearly disclose the options available at the end of each term.</p> <p><u>Rolling surrender charges</u>, flexible premium contracts with separate surrender charge schedules associated with each premium payment must provide values at least as great as separate single premium payments (the contract must provide a minimum of 90% of net premium accumulated at 3% interest). The contract shall contain a partial withdrawal provision that allows for withdrawal of monies subject to the smallest surrender penalty first (commonly referred to as first-in first-out - FIFO).</p> <p><u>Variable Annuities with Fixed Sub-Accounts</u>. Variable annuities, including registered modified guaranteed annuities are exempt from 31A-22-409, except for fixed interest sub-accounts that are supported by the general account.</p>
Claims Settlement	U.C.A. § 31A-26-301(1), R590-191-4 & R590-191-5	All proceeds and claims settlement provisions must be in compliance with U.C.A. § 31A-26-301(1) and R590-191-4 that establishes the minimum standards for prompt claim handling and requires that the company must act within 15 days of receipt of due proof of the death; and R590-191-5 requires payment of interest if the claim is not settled within 15 days after completion of the claim investigation.
Death Benefit	31A-21-201(3)(a) & 31A-22-409	Guaranteed death benefit amount must be in compliance and must be clearly described including factors that may affect the death benefit, such as surrender charges, fees, loads, market value adjustments, and bonuses. If in any year the death benefit is less than the minimum nonforfeiture amount as required by Standard Nonforfeiture Law for Deferred Annuities, a statement to that effect must clearly and prominently disclose such deficiency.
Deferral of surrender value	31A-22-409(2) & R590-98	The right to defer the surrender value for six months must be contained in the policy.

**Utah Insurance Department
Content Standards
Individual Annuity
(Single and Flexible Premium Deferred, Fixed Interest, not Modified Guaranteed)**

Definitions	31A-21-201(3) & 31A-22-409	All definitions must be complete and consistent throughout the form. The contract must define at least the death benefit, account value, cash surrender value, and annuity value, or terms of similar meaning. The tables and schedules of values may contain only those terms that are accurately defined in the contract. A Flexible Premium Deferred Annuity must contain a definition of the GUARANTEED MINIMUM CASH SURRENDER VALUE.
Discretionary Authority and Allocation of Authority	31A-21-201(3), Bulletin 2002-7	Provisions that grant the insurer full and exclusive authority to interpret and construe policy provisions are inequitable, are not in the public interest, are misleading, are contrary to law, and they deprive Utah Courts of jurisdiction to interpret insurance contracts. See Bulletin 2002-7. The Utah Insurance Department understands the need for a discretionary clause in an insurance form that is part of an ERISA plan, therefore the department will allow only the following safe harbor language in insurance forms that are used in ERISA plans: <u>"Benefits under this plan will be paid only if the plan administrator decides that the claimant is entitled to them"</u> . However, where an insurance form is not part of an ERISA plan, the Utah Insurance Department prohibits from use any insurance form that includes any clause that states that the insurance company has discretion.
Endorsement	31A-21-201(3)	An endorsement may not be used to change or replace a basic feature of the policy, such as lowering the minimum guaranteed interest rate. An endorsement may be overlooked by the policyholder and may create a contract that is misleading.
Entire contract provision	31A-22-424	Entire contract provision must define the documents and agreements that constitute the entire contract between the insurer and the policyholder. Except as permitted by UCA 31A-21-106, all documents and agreements must be attached to the contract.
Incontestability	31A-22-403	Incontestability provision must state that if the contract is contestable, it is incontestable after it has been in force during the lifetime of the insured for a period of two years or less. The code does not allow an exception for fraud.
Legal Actions & Limitation of actions	31A-21-313 & 31A-21-314(3)	An insurance policy may not limit the time for beginning an action to earlier than 60 days after proof of loss has been furnished as required by the policy. An insurance policy may not contain a provision limiting the right of action against an insurer to less than three years from the date the cause of action accrues. The provision cannot prescribe in what court an action may be brought.
Loans	31A-22-420	A contract that develops cash values may provide for a loan provision. The contract must contain the conditions of a loan, if available. Loan interest may be based on a fixed interest rate or an

**Utah Insurance Department
Content Standards
Individual Annuity
(Single and Flexible Premium Deferred, Fixed Interest, not Modified Guaranteed)**

		adjustable rate of interest. Refer to the statute for maximum interest rates. Utah does not allow an additional expense charge or fee.
Maturity/Annuitization Date	31A-21-201, 31A-21-301(1)(f) & 31A-22-409	The maturity or annuitization date must be disclosed. The contract must clearly disclose whether or not the policyholder can select or change the maturity date. If the contract is tax-qualified, provisions must allow for compliance with withdrawal requirements of Internal Revenue Code.
Minimum Premium	31A-21-302	The contract shall state any minimum premium requirements.
Misstatement of Age or Sex	31A-22-405	Policy must state that if the age and/or sex of the insured is misstated in an application and the error is not adjusted during the person's lifetime, the amount payable is what the premium paid would have purchased at the correct age and/or sex.
Modification or Amendment of Contract	31A-21-106(2)	No contract, rider or endorsement may contain unilateral provisions that allow the company " <u>in its sole discretion</u> " to limit the policyholder's rights. The code states that a contract may not be modified unless the modification is in writing and "agreed to by the party against whose interest the modification operates".
Nonforfeiture Values and Cash Surrender Values	31A-22-409, Bulletin 2002-6, Bulletin 2002-9	<p>The contract must contain provisions at least as favorable as the following:</p> <ul style="list-style-type: none"> (a) Upon cessation of payments, the company will grant a paid-up annuity benefit. (b) If the contract provides for a lump sum settlement, upon surrender at or prior to commencement of annuity payments, contract will pay a cash surrender benefit of such amount as specified in the law, in lieu of a paid-up annuity. (c) A statement in the contract of the mortality table, if any, and interest rates used in calculating the minimum paid-up annuity, cash surrender and death benefits guaranteed, together with sufficient information for the policyholder to determine the amounts of such benefits. The sufficient information includes all expense, withdrawal and surrender charges. (d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute in state where the contract is delivered. (e) An explanation of the manner in which benefits are altered by the existence of any additional amounts credited by the company, any indebtedness or any prior withdrawals or partial surrenders. (f) Cash surrender values and nonforfeiture benefits must comply with the nonforfeiture and cash surrender value requirements of Standard Nonforfeiture Law for Deferred Annuities, U.C.A. 31A-22-409. (g) <u>See Bulletin 2002-6 and Bulletin 2002-9 for the interpretation of Utah's Standard Nonforfeiture Law for Annuities.</u> The law states that "for the purposes of determining the benefits" the surrender charges must be based on the latest date for which an election shall

**Utah Insurance Department
Content Standards
Individual Annuity
(Single and Flexible Premium Deferred, Fixed Interest, not Modified Guaranteed)**

		be permitted by the contract, <u>"but may not be considered to be later than the anniversary of the contract next following the annuitant's 70th birthday or the tenth anniversary of the contract, whichever is later"</u> . Any contract that imposes a surrender charge past age 70 or beyond the tenth contract year for certain ages is in violation. <u>Surrender charges at the later of attained age 70 or the tenth anniversary must equal zero.</u>
Proof of Loss	31A-21-312 & Bulletin 87-6	Proof of loss provision must allow the insured or claimant to file the notice and/or proof of loss as soon as reasonably possible. Failure to file within the time specified does not invalidate a claim if the insured or claimant shows that it was not reasonably possible to file within the time specified and that notice and/or proof was filed as soon as reasonably possible. The provision <u>may not</u> state that in no event, except in the absence of legal capacity, may proof be filed later than the time proof is otherwise required. Failure to give notice or file proof of loss does not bar recovery under the policy if the insurer fails to show it was prejudiced by the failure.
Settlement Options	31A-22-406	If the policy provides that proceeds may be payable in installments that are determinable at the issue of the policy then it shall provide a table showing the amounts and intervals of the installments. The contract must clearly disclose that the "Life" option is lifetime only with no guaranteed payment periods.
Termination Option	31A-22-409(3)	The contract may provide that if no consideration has been received for two years and the portion of the paid-up annuity benefit at maturity would be less than \$20 monthly, the company may terminate the contract by payment in cash of the present value of the paid-up benefit.
Unfair, Misleading, Deceptive Provisions.	31A-21-201(3)(a)	Forms cannot be inequitable, unfairly discriminatory, misleading, deceptive, obscure, unfair, encourage misrepresentation, or not in the public interest. The contract may not contain inconsistent, ambiguous or misleading clauses, or contain exceptions and conditions that unreasonably affect the benefits purported to be provided in the general coverage of the contract. <ul style="list-style-type: none"> a. No endorsement changing the guaranteed minimum interest rate is allowed. A contract with two guaranteed minimum interest rates is a misleading contract. b. No endorsement changing the surrender charge schedule is allowed. A contract with two surrender charge schedules is a misleading contract. c. Negative enrollment or negative consent is not allowed. d. Vague limitations of future premium payments in fixed interest contracts are unclear and misleading. The contract must specify the maximum amounts and/or terms during which subsequent premium payments will be accepted. e. Vague limitations of transfers between the fixed interest account and the investment options in variable contracts are unfair and misleading. When such limitation or restriction is at the sole discretion of the company or in the judgment of the company, then the

**Utah Insurance Department
Content Standards
Individual Annuity
(Single and Flexible Premium Deferred, Fixed Interest, not Modified Guaranteed)**

		provision is in conflict with U.C.A. § 31A-21-106(2).
ACTUARIAL DOCUMENTS		
Actuarial memorandum, demonstration, and certification of compliance	31A-17 Part 5, 31A-22-408, R590-86, R590-96 & Bulletin 99-7 Part 2(4)	<p>Actuarial memorandum, demonstration, and Certification of Compliance must be currently signed and dated by a qualified actuary who is a member in good standing with the American Academy of Actuaries.</p> <ul style="list-style-type: none"> (a) The memorandum must describe all features of the policy both guaranteed and nonguaranteed, list all assumptions underlying nonforfeiture and reserve calculations. (b) The demonstration must be based on guaranteed factors and it must show that values provided are in compliance with Standard Nonforfeiture Law for Deferred Annuities and Standard Valuation Law. Sample nonforfeiture calculations must be for representative ages to demonstrate compliance with Standard Nonforfeiture Law and include the same age and premium amount as in the policy. (c) Refer to R590-96 for Annuity Mortality Tables for use in determining reserves. The rule requires use of the Annuity 2000 Mortality Table for individual annuity contracts issued after July 1, 1999.
GENERAL FILING REFERENCES		
File and Use, Prohibit Use of Form	31A-21-201	Utah is a “ FILE AND USE ” state for forms. The commissioner may prohibit the use of a form at any time upon a finding that it is, among other things, inequitable; unfairly discriminatory; misleading; deceptive, obscure; unfair, encourages misrepresentation; is not in the public interest; or it violates a statute or a rule adopted by the commissioner.
Frequent problems in filings	Bulletin 96-8	See Bulletin when preparing a form for filing.
Procedures for Submission of Forms and Rates	R590-86 & Bulletin 99-7	See Rule and Bulletin when preparing a form for filing.
Accurate & Complete Information	31A-2-202(6)	The filing must include the signed and dated <u>certification of compliance</u> in the Transmittal Form. The company must certify that nothing in the filing has been disapproved or prohibited from use in a prior filing.